

Message Text

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SUBJ: DRUG LAWS AND THEIR IMPLEMENTATION

REF: STATE 170187

1. THE FOLLOWING ARE KEYED TO SUB-SECTIONS OF PARA 2 OF REFTTEL.

2. (1) POSSESSION: (A) IVORIAN LAW MAKES NO DISTINCTION BETWEEN VARIOUS NARCOTICS. ALL ARE TREATED AS POISONOUS SUBSTANCES. (B) NEITHER IVORIAN STATUTES NOR REGULATIONS CONTAIN ANY REFERENCE TO QUALIFYING AMOUNTS NOR ARE WE AWARE OF ANY PRECEDENTS IN ENFORCEMENT PRACTICE. (C) IVORIAN LAW TREATS POSSESSION, SALE AND USE OF POISONOUS SUBSTANCES THE SAME. THEREFORE, PROSECUTION FOR POSSESSION COULD BE AS SEVERE AS ANY OTHER DRUG OFFENSE.

3. (2) TRAFFICKING: (A) IVORIAN LAW DOES NOT DIFFERENTIATE BETWEEN POSSESSION, USE AND SALE OF POISONOUS SUBSTANCES. (B) THE POSSIBLE IVORIAN PENALTY FOR A DRUG RELATED OFFENSE RANGES FROM THREE MONTHS TO FIVE YEARS IMPRISONEMENT AND/OR A FINE OF CFA 240,000 TO CFA 2,400,000 (\$1,100 TO \$11,000). IVORIAN COURTS CAN ALSO SUSPEND A PERSON'S CIVIL RIGHTS FOR ONE TO FIVE YEARS AND/OR DEPORT THEM FOR FIVE TO TEN YEARS. (C) IVORIAN LAW DOES NOT ESTABLISH A MINIMUM AMOUNT WHICH WOULD

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CONSTITUTE TRAFFICKING. PENALTIES FOR THOSE WHO GIVE OTHERS DRUGS ARE THE SAME AS FOR THOSE WHO SELL DRUGS. (D) THE IVORIANS CAN PROSECUTE FOR CONSPIRACY EVEN IF THE CONSPIRACY TAKES PLACE OUTSIDE OF IVORY COAST.

4. (3) CULTIVATION: (A) THERE ARE NO IVORIAN STATUTES SPECIFICALLY FORBIDDING THE CULTIVATION OF (I) CANABIS (II)

COCA AND/OR (III) OPIUM POPPIES. (B) ONLY CANABIS WILL GROW IN IVORY COAST AND ALTHOUGH ITS CULTIVATION IS NOT SPECIFICALLY PROHIBITED, WE BELIEVE THE AUTHORITIES COULD PROSECUTE CANABIS CULTIVATION UNDER PRESENT LAWS PROHIBITING POSSESSION, USE AND SALE OF POISONOUS SUBSTANCES. (C) THERE ARE NO SPECIFIC STATUTES FORBIDDING ELABORATION. AS ABOVE WE BELIEVE AUTHORITIES COULD PROBABLY PROSECUTE UNDER EXISTING STATUTES.

5. (4) FINANCIAL (A) THERE IS NO SPECIFIC STATUTORY PROHIBITION AGAINST FINANCING CULTIVATION, ELABORATION OR TRAFFICKING IN NARCOTICS. IVORY COAST HAS NO VISIBLE CONCERN WITH THIS PHASE OF THE DRUG PROBLEM. (B) THERE ARE NO CURRENCY CONTROLS AGAINST REPATRIATION OF AN INDIVIDUAL'S MONEY TO HIS COUNTRY OF NATIONALITY. MINISTRY OF FINANCE CONCURRENCE IS NEEDED TO MOVE MORE THAN MINIMAL AMOUNTS OF MONEY TO A THIRD COUNTRY. HOWEVER, THERE ARE NO IVORIAN RESTRICTIONS ON HAVING FOREIGN BANK ACCOUNTS.

6. (5) CRIMINAL PROCEDURES:(A) THERE IS A PRE-TRIAL CRIMINAL INVESTIGATION WITHOUT A STATUTORY TIME LIMITATION. THE PUBLIC PROSECUTOR CAN DETAIN A SUSPECT FOR 48 HOURS WITHOUT CHARGING HIM. THE PROSECUTOR CAN RENEW THIS 48 HOUR PERIOD INDEFINITELY. THERE IS NO TREATY GUARANTEEING NOTIFICATION OF THE EMBASSY OF THE ARREST OF AN AMERICAN CITIZEN. RECENT EXPERIENCE SHOWS THAT CONSUL CAN EXPECT REASONABLE ACCESS TO AMERICAN PRISONERS. (B) PRE-TRIAL DETENTION CAN BE UNCLASSIFIED

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LENGTHY AS DESCRIBED ABOVE. (C) (I) DUE TO INFREQUENCY OF ARREST OF AMERICANS, EMBASSY'S EXPERIENCE HAS BEEN LIMITED. ON THE BASIS OF A RECENT CASE, IT APPEARS PRE-TRIAL DETENTION PERIODS MAY BE LONG (IN EXCESS OF SIX MONTHS). DEPENDING ON THE NATURE OF THE CASE, TRIALS LAST FROM SEVERAL HOURS TO TWO WEEKS. (II) THE LENGTH OF THE REVIEW/CONFIRMATION PROCEDURE AND (III) OF THE APPELLATE PROCEDURE ALSO VARY ACCORDING TO THE NATURE OF THE CASE. (D) THERE ARE PROVISIONS WITHIN THE IVORIAN JUDICIAL SYSTEM PROVIDING FOR COURT-APPOINTED ATTORNEYS FOR INDIGENT DEFENDANTS. RECENT EXPERIENCE SHOWS, HOWEVER, THAT COURT APPOINTED ATTORNEYS ARE NOT READILY AVAILABLE. THERE ARE SEVERAL CRIMINAL LAWYERS IN ABIDJAN, NONE OF WHOM SPECIALIZES IN DRUG CASES. THESE LAWYERS REQUEST RETAINERS RANGING FROM ONE TO TWO MILLION CFA (\$4,500 TO \$9,000). (E) THE ACCUSED CAN BE RELEASED ON BAIL, CALLED A CAUTIONNEMENT, WHICH CAN BE VERY HIGH. A CAUTIONNEMENT CAN BE AN AMOUNT, IN CASH, EQUAL TO THE MAXIMUM FINE, TOTAL POTENTIAL DAMAGES TO THE STATE AND THIRD PARTIES, AND THE TOTAL COST OF ALL COURT PROCEEDINGS. (F) THE POLICE CAN SUMMARILY DEPORT PEOPLE FOR MINOR OFFENSES RATHER THAN DETAIN THEM, BUT WE ARE UNAWARE OF ANY PRECEDENTS IN DRUG CASES. FRIEDMAN

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